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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,318	05/15/2006	Rainer Butendeich	12406-141US1 P2003,0404US	2803
26161 7590 08/20/2008 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER KALAM, ABUL	
			ART UNIT 2814	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,318	Applicant(s) BUTENDEICH ET AL.	
	Examiner Abul Kalam	Art Unit 2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-15,17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 5-7,9 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,10-15,17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/29/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II, in the reply filed on May 30, 2008, is acknowledged. Applicant also stated that claims 1, 8, 10-15, 17 and 20 read on the elected species.

Claim Objections

2. New independent claim 20 recites the same limitations already claimed in claim 10. Thus, either claim 10 or claim 20 should be cancelled.

Allowable Subject Matter

3. The indicated allowability of claim 10 is withdrawn in view of the reference to Shakuda (US 5,825,052), newly cited by Applicant. Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 1, 12-15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shakuda (US 5,825,052); cited by Applicant**).

With respect to **claim 1**, **Shakuda** teaches (**FIG. 1; col. 8, Ins. 24-46**) a radiation-emitting semiconductor component with a layer structure comprising:

an n-doped confinement layer (**layers 2-4, Fig. 1**) doped with a first n-dopant (**col. 8, Ins. 33-42: "dopant S"**) ,

a p-doped confinement layer (**6, Fig. 1; col. 8, Ins. 43-46**),

and an active, photon emitting layer (**5, Fig. 1**) disposed between said n-doped confinement layer (**layers 2-4**) and said p-doped confinement layer (**6**);

wherein said n-doped confinement layer (**layers 2-4**) further includes a second n-dopant or an additional dopant (**col. 8, Ins. 24-28 and 33-42: "dopant Te"**).

Thus, **Shakuda** teaches all the limitations of the claim with the exception of explicitly disclosing in this embodiment, wherein said active layer is doped with a second n-dopant different from the first n-dopant. However, **Shakuda** teaches in another embodiment that adding a dopant to the active layer allows different light emitting levels to be developed, and thus, the wavelength of the emitted light can be made longer (**col. 5, Ins. 39-42**). Further, **Shakuda** teaches wherein the active layer is doped with a second n-dopant (**col. 5, In. 45: "Se"**). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to incorporate a dopant into the active layer, for the disclosed intended purpose of increasing the wavelength of the emitted light and improving light emitting efficiency of the device.

With respect to **claim 12**, **Shakuda** teaches wherein said first n-dopant comprise silicon (**col. 8, Ins. 24-26**).

With respect to **claim 13, Shakuda** teaches wherein said second n-dopant tellurium (**col. 8, ln. 40: "dopant Te"**).

With respect to **claim 14, Shakuda** teaches wherein said p-doped confinement (**6, Fig. 1**) layer comprises magnesium (**col. 8, Ins. 43-46**).

With respect to **claim 15, Shakuda** teaches wherein said layer structure comprises a basis of AlGaInP, AlGaAs, InGaAlAs or InGaAsP (**col. 4: Ins. 34-40**).

With respect to **claim 17, Shakuda** teaches wherein said additional dopant (**col. 5, ln. 45: "Se"**) is said second n-dopant (**col. 8, ln. 25: "Se"**).

5. **Claims 8-11 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shakuda ('052)** in view of **Anayama (US 2002/0027935; previously cited)**.

With respect to **claim 8, Shakuda** teaches all the limitations of the claim, as set forth above in claim 1, with the exception of disclosing: wherein said semiconductor component is a laser diode in which a first waveguide layer is disposed between said active layer and said n-doped confinement layer and a second waveguide layer is disposed between said active layer and said p-doped confinement layer.

However, **Anayama** teaches a laser diode (**FIG. 15J**) in which a first waveguide layer (**58, 59; pgs. 7-8: ¶ [0131]-[0132]**) is disposed between said active layer (**60; pg. 8: ¶ [0135]**) and said n-doped confinement layer (**54-57; pg. 7: ¶ [0125]**) and a second waveguide layer (**61, 62; pg. 8: ¶ [0136]-[0137]**) is disposed between said active (**60**) layer and said p-doped confinement layer (**63-65; pg. 8: ¶ [0138]**).

With respect to **claim 9, Anayama** teaches wherein the first waveguide layer **(59)** is un-doped (**pg. 8: [0132]**).

With respect to **claims 10 and 20, Shakuda and Anayama** teach all the limitations of the claims, as set forth above in claims 1 and 8, with the exception of disclosing wherein said first waveguide layer is doped with said second n-dopant. However, Shakuda teaches wherein the active layer is doped with a second n-dopant of selenium (**col. 5, ln. 45: "Se"**) and Anayama teaches wherein the first waveguide layer is doped with silicon ("**dopant gas of Si₂H₆**", **pgs. 7-8: ¶ [0131]**). It would have been obvious to one of ordinary skill in the art at the time of the invention, to dope Shakuda's active layer with silicon instead of selenium, because such a modification would have been considered a mere substitution of art recognized equivalent dopants (**Shakuda: col. 8, lns. 24-25**).

With respect to **claim 11, Anayama** teaches wherein the second waveguide layer **(61)** is un-doped (**pg. 8: [0136]**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of **Anayama**, into the device of **Shakuda**, to form waveguide layers interposed between n-doped and p-doped confinement layers and the active layer, for the purpose of forming a laser diode capable of operating for a long duration without losing efficiency (**pg. 10: [0154]**). Furthermore, note that Shakuda states that his "invention can be also applied to various semiconductors including semiconductor laser (col. 11, lns. 54-55)."

Response to Arguments

6. Applicant's arguments filed October 29, 2007, have been fully considered but are moot in view of new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abul Kalam whose telephone number is (571)272-8346. The examiner can normally be reached on Monday - Friday, 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. K./
Examiner, Art Unit 2814

/Phat X. Cao/
Primary Examiner, Art Unit 2814